



Agenda Date: 3/6/02
Agenda Item: IIIB

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

IN THE MATTER OF THE PETITION OF)	<u>CABLE TELEVISION</u>
COMCAST CABLEVISION OF MONMOUTH)	
COUNTY, INC. FOR A RENEWAL)	
CERTIFICATE OF APPROVAL TO)	
CONTINUE TO CONSTRUCT, OPERATE)	<u>RENEWAL</u>
AND MAINTAIN A CABLE TELEVISION)	<u>CERTIFICATE OF APPROVAL</u>
SYSTEM IN AND FOR THE BOROUGH OF)	
FREEHOLD, COUNTY OF MONMOUTH,)	
STATE OF NEW JERSEY)	DOCKET NO. CE02010014

Stryker, Tams and Dill, Newark, New Jersey, by Janice Manganello, Esq., for the Petitioner.

Borough Clerk, Borough of Freehold, New Jersey, by Linda Cottrell, for the Borough.

BY THE BOARD:

On April 11, 1980, the Board granted Futurevision Cable Enterprises, Inc. ("Futurevision") a Certificate of Approval, in Docket No. 7912C-6619, for the construction, operation and maintenance of a cable television system in the Borough of Freehold ("Borough"). On July 1, 1988, in Docket No. CM8605542, the Board approved an internal corporation reorganization of Futurevision, which allowed the company to assume the name Storer Cable Communications of Monmouth County, Inc. d/b/a Storer Cable Communications ("Storer"). On April 22, 1992, the Board granted Storer a Renewal Certificate of Approval for the Borough in Docket No. CE91111760.

On November 30, 1992, in Docket No. CM92080843, the Board approved the petition of Comcast Cablevision (a 50% shareholder of the Certificate) and Storer to transfer all assets to Comcast Cablevision, Inc. On June 27, 1994, Storer notified the Board's Office of Cable Television that it would now be known as Comcast Cablevision of Monmouth County, Inc. ("Petitioner"). Although the Petitioner's Certificate expired on April 11, 2000, it is authorized to continue to provide cable service to the Borough pursuant to N.J.S.A. 48:5A-25.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on July 9, 1999, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Borough, after public

hearing, adopted a municipal ordinance granting renewal consent to the Petitioner on November 19, 2001. On November 29, 2001, the Petitioner formally accepted the terms and conditions of the ordinance, in accordance with N.J.S.A. 48:5A-24.

On January 2, 2002, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Renewal Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.
2. The design and technical specifications of the system will ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is 15 years. The Board finds this period to be of reasonable duration.
5. The Borough may review the performance of the Petitioner with regard to the ordinance at its discretion. If the Borough determines that the Petitioner has failed to substantially comply with the material terms and conditions of the ordinance, the Borough shall provide written notice to the Petitioner of such alleged instances of non-compliance and shall grant the Petitioner 90 days to cure such deficiency. The Borough may petition the Board for appropriate administrative action, including revocation of the franchise or reduction of the franchise term, only after the 90-day opportunity to cure has passed and the deficiency has not been cured.
6. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates and promptly file any revisions thereto.
7. Pursuant to N.J.S.A. 48:5A-26(b), the ordinance specifies a complaint officer. In this case, it is the Office of Cable Television. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.

8. The Petitioner shall maintain a local business office or agent for the purpose of receiving, investigating and resolving complaints. Currently, the local office serving this provision is located at 403 South Street in the Borough of Eatontown. The Petitioner shall also maintain an office in the Borough for the purpose of receiving payments from Borough residents. The Petitioner may determine the hours of operation and may close the office upon 30 days' notice to the Borough of the number of customers using the service falls below 40 per month during a three month period.
9. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
10. The Petitioner shall provide service along any public right-of-way to any person's residence or business located in all areas of the franchise territory at tariffed rates for standard and non-standard installation. In all other circumstances, the Petitioner shall utilize the line extension policy ("LEP") attached to the Certificate. The minimum homes per mile figure is 35.
11. The Petitioner has agreed to provide public, educational and governmental ("PEG") access channels and facilities in accordance with its renewal application and the ordinance. Specifically, within 12 months of issuance of this Certificate, the Petitioner shall pay to the Borough a one-time capital contribution in the amount of \$35,000.00 for technology support.
12. The Petitioner shall videotape up to two events per year upon request of the Borough and provide the tape to the Borough for use on its access channel(s). The Borough shall give the Petitioner at least four weeks' advanced notice of the events to be taped.
13. In addition to the above, the Petitioner has one system-wide channel designated for community access and one system-wide channel designated for municipal access. The Petitioner also maintains a fully equipped operational local production studio in Brick Township for the creation of local and access programming. Community groups, individuals and organizations may use these facilities.
14. The Petitioner shall provide the standard installation and basic service to one outlet, free of charge, to: a) each public and private elementary and secondary school; b) the municipal building; c) each fire department; d) each first aid squad;

e) each library; f) each community or senior center; g) the water plant; and h) the public works building; provided that the facility is within 200 feet of activated cable distribution plant.

15. The Petitioner shall provide free basic Internet access service, via high-speed modem, to one non-networked personal computer to each school and library in the Borough, provided that the facility is within 200 feet of activated cable distribution plant. If the Borough decides to contract with Comcast Business Communications for municipal or school Internet service, the Petitioner shall pay the cost of installation up to \$3,000.00.
16. Upon reasonable written request of the Borough, the Petitioner shall appear at a public hearing of the governing body or before the Borough's cable television advisory committee, at least once annually, to review all matters pertaining to the provision of cable service to the residents of the Borough and other related issues.

Based upon these findings, the Board HEREBY CONCLUDES that, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has sufficient financial and technical capacity and meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner's authority to construct and operate a cable television system within the entirety of the Borough.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the operating standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. Section 76.1 et seq. Any modifications to the provisions thereof, shall be incorporated into this Certificate. Additionally and more specifically, the Petitioner shall adhere to the technical standards of 47 C.F.R. Part 76, Subpart K.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to

and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire on April 11, 2015.

DATED: March 6, 2002

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)

HENRY M. OGDEN
ACTING BOARD SECRETARY